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A. Eli Leino (also admitted in N.H.)**RECEIVED****JAN 24 2020****Planning Board
Grafton, MA****MEMORANDUM**

To: Grafton Planning Board cc: Zoning Board of Appeals
From: A. Eli Leino, Esq.
Date: January 24, 2020
Regarding: Application of David Muradian – 165 Worcester Street Parcel

Dear Members of the Town of Grafton Planning Board:

Please allow this memorandum to clarify certain aspects of an Application for Special Permit submitted by David Muradian regarding the property located at 165 Worcester Street, Grafton, Massachusetts. The Applicant is proposing construction of a detached two-family dwelling. As the lot is located in the R-20 zoning district, a Special Permit is required for this use per Zoning By-Laws § 3.2.3.1 (Use Regulation Schedule). Section 1.5.1 of the Grafton Zoning By-Laws designates the Planning Board as the Special Permit Granting Authority for this type of application. The application submitted to the Planning Board erroneously seeks additional relief in the form of variances for frontage, lot area, and minimum setback requirements. On behalf of the Applicant, this office will file a companion application to the Zoning Board of Appeals to obtain the necessary relief that the Zoning Board is empowered to grant. The Applicant respectfully requests the Planning Board consider the two-family dwelling aspect of the application, as it is enabled to do.

One feature of note about this lot is that it was created through the existing structures exemption of M.G.L. c. 41 § 81L. A plan of land recorded at the Worcester Registry of Deeds on August 27, 1979 in Plan Book 467, Plan 15, shows how an existing parcel featuring a house, barn, and commercial garage was split into two parcels. The lot now identified as 165 Worcester Street housed the garage, which was destroyed in a winter storm and then demolished. In 2015, the Supreme Judicial Court issued a ruling in Palitz vs. Zoning Board of Appeals of Tisbury, 470 Mass. 795 (2015), clarifying the “grandfather” status for lots created under § 81L. In Palitz, the court held that existing structures on lots created by § 81L division maintained grandfathered protections, but that new nonconformities arising on the new lot must be authorized by a variance.

It is Mr. Muradian's intention to apply for any necessary relief to have this lot be legally used, as changing the use and building location will create different non-conformities. Both the Planning Board and Zoning Board have jurisdiction over certain aspects of permitting this parcel, so this application may be rightly considered at the hearing on January 27, 2020.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Eli Leino', written over a horizontal line.

A. Eli Leino